

REMARKS

The Applicants acknowledge the finality of the restriction requirement; claims 8, 10, 13, 14, 15, and 16 have been withdrawn as being drawn to non-elected subject matter.

Claims 1-6, 8, 13, and 14 have been amended to even more particularly describe the recited inventions, to correct typographical errors, and to incorporate language more conventional in U.S. practice. Claim 5 has been amended to indicate that the phrase “selected from the group consisting of” has been added. Claim 14 has been amended to indicate that the phrase “The method of claim 13 wherein” has been added. The Applicants note that these additions were made to these claims in the February 10, 2005 Preliminary Amendment; however, these phrases were not underlined, as required by 37 C.F.R. § 1.121.

Rejection under 35 U.S.C. § 102

Claims 1-4, 6, 7, 9, and 11 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 7,169,786 (“the 786 patent”). The Applicants note that the first publication of the 786 patent was August 29, 2002 (publication of PCT/EP02/01567). The present application claims benefit of EPO 02078322.1, filed on August 12, 2002. As a consequence, the 786 cannot be prior art under 35 U.S.C. § 102(b). In any event, claim 1 has been amended such that R¹ and R² are each selected from a group that does not include aryl. In light of the present amendments, the Applicants respectfully request reconsideration and withdrawal of the rejection.

Obviousness-type double patenting rejections

Claim 1, 2, 6, 7, 9, and 11 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1, 3, 7-9, and 12 of U.S. Application No. 10/510,220. The Applicants note the U.S. Application No. 10/510,220 has since issued as U.S. Patent No. 7,265,103. Claims 1-3, 6, 7, 9, and 11 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1, 3, 7-9, and 12 of U.S. Application No. 10/524,989. Upon an indication of the allowability of the claims, the Applicants will consider whether the filing of terminal disclaimers would be appropriate.

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